negligence. *Martin* v. *Des Moines Light Co.*, 131 Ia. 724, 106 N. W. 359. In this sense the doctrine has no application to the facts of the principal case. Clearly a literal interpretation of the language of the Act sustains the court in limiting the scope of the expression to this latter meaning. Such, however, must have also been the intention of the legislature. For an earlier New York Act had been called unconstitutional because it established a relational liability without fault. *Ives* v. *South Buffalo Ry. Co.*, 201 N. Y. 271, 94 N. E. 431. And it was to avoid this result that the Massachusetts legislature inserted this optional common-law remedy. See *Opinion of Justices*, 209 Mass. 607, 610, 96 N. E. 308, 315; RUBINOW, SOCIAL INSURANCE, 175. Therefore, to hold that the optional common-law remedy likewise established a relational liability without fault would be to defeat the very purpose of the legislature in providing the option.

MORTGAGES — PRIORITIES — PRIORITY OF SUBSEQUENT CREDITORS OVER BONDHOLDERS. — A receiver was appointed for the defendant railroad, and subsequently the bondholders brought suit to foreclose. The plaintiff intervenes, claiming priority to the bondholders for certain claims out of the proceeds of the foreclosure sale, on the ground that they arose from services which the plaintiff, as a connecting carrier, was legally bound to render to the defendant. *Held*, that these claims do not take priority over the lien of the bondholders. *Chicago, etc. R. Co.* v. *United States, etc. Trust Co.*, 225 Fed. 940 (C. C. A., 8th Circ.).

Current expenses of a railroad have a claim on gross earnings prior to that of the bondholders, on the ground that the creditors relied on such earnings rather than on general credit. *Virginia, etc. Coal Co.* v. *Central R. & B. Co.*, 170 U. S. 355. But only when the income has been diverted from the payment of current expenses to the improvement of the property may such claims be satisfied out of the *corpus*, in preference to the bondholders. *Burnham* v. *Bowen*, 111 U. S. 776; *Southern Ry. Co.* v. *Carnegie Steel Co.*, 76 Fed. 492. See 18 HARV. L. REV. 605. It has been stated that an exception exists where the preservation of the business requires immediate payment. *Miltenberger* v. *Logansport Ry. Co.*, 106 U. S. 286, 311; see dissent in *Gregg* v. *Metropolitan Trust Co.*, 197 U. S. 183, 190. Although the courts in the later cases recognize this exception, their refusal to apply it shows its narrow limits. *Thomas* v. *Western Car Co.*, 149 U. S. 95; *Gregg* v. *Metropolitan Trust Co.*, *supra*. See *Kneeland* v. *American Loan & Trust Co.*, 136 U. S. 89, 98; *Lackawanna Iron & Coal Co.* v. *Farmers' Loan & Trust Co.*, 176 U. S. 298, 316. The plaintiff's claim in the principal case, therefore, suggests a new exception, which the court seems correct in denying. The plaintiff, having entered the business of a carrier voluntarily, can scarcely complain of the relational burdens it has thereby assumed, nor make such complaint the basis of a claim for a preference. Indeed, a preference to a common carrier has been held the less justified, because immediate payment is not necessary to secure continued service. *Carbon Fuel Co.* v. *Chicago, etc. R. Co.*, 202 Fed. 172.

MUNICIPAL CORPORATIONS — OFFICERS AND AGENTS — LIABILITY OF HIGHWAY CONTRACTOR FOR MISFEASANCE. — The defendant, a contractor working on county roads, negligently piled stones on the road without proper safeguards. The plaintiff sues for injuries to himself and team resulting therefrom. *Held*, that he may not recover. *Ockerman* v. *Woodward*, 178 S. W. 1100 (Ky.)

For a discussion of this case, see NOTES, p. 323.

NEGLIGENCE — DEFENSES — ILLEGAL CONDUCT OF THE PLAINTIFF. — A statute requires public officers to impound all cattle running at large in highways. MASS. R. L., c. 33, §§ 22, 23. The plaintiff's bull escaped into the highway and was there killed by the defendant's negligently driven street car.